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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/738,913

12/16/2003

Eckhard Alt

DEA/056

8357

53164

7590

04/14/2008

DONALD R. GREENE

P.O. BOX 6238

GOODYEAR, AZ 85338

EXAMINER

BUI, VY Q

ART UNIT

PAPER NUMBER

3773

MAIL DATE

DELIVERY MODE

04/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/738,913	ALT, ECKHARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vy Q. Bui	3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/3/2007</u> .                                                | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-13, 15-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Jayaraman-5,893,887.

As to claims 1-6, 8-13, 15-21, Jayaraman-'887 (Figs. 5 and 8, for example; col. 2, lines 23-29) discloses an acutely angled end stent of 30° or 45° or 60° having radiopaque coating at the ends for easy viewing during a deployment substantially as recited in the claims.

As to claims 22-23, Jayaraman-'887 (Fig. 5) inherently discloses a method of implanting as recited in the claim. Alternatively, it is obvious to one of ordinary skill in the art to use a balloon to place stent 10 as shown in Fig. 5 in a process/method as recited in the claims.

As to claim 24, Jayaraman-'887 (Fig. 5) inherently discloses a method of fabricating the stent as recited in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3773

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jayaraman-5,893,887 in view of Chen-6,939,863.

As to claims 7 and 17, Jayaraman-'887 discloses substantially the claimed invention, except for a drug coating to prevent re-stenosis. However, Chen-'863 (col. 2, lines 25-34) discloses a stent with a drug eluting coating to prevent restenosis. It would have been obvious to one of ordinary skill in the art to provide a drug coating to Jayaraman-'887 stent as taught by Chen-'863, as this configuration would make Jayaraman-'887 stent more resistant to restenosis.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/s/ Vy Q. Bui/  
Primary Examiner, Art Unit 3773

<b>Notice of References Cited</b>	Application/Control No. 10/738,913	Applicant(s)/Patent Under Reexamination ALT, ECKHARD	
	Examiner Vy Q. Bui	Art Unit 3773	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,893,887	04-1999	Jayaraman, Swaminathan	623/1.15
*	B	US-6,939,863	09-2005	Chen, Wei-Jan	514/50
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

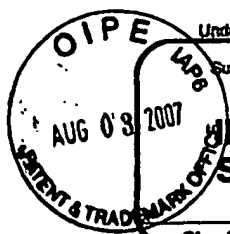
*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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Substitute for form 1449/PTO

# **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 1 of 2

**Complete if Known**

Application Number **10/738919**  
 Filing Date **12/16/2003**  
 First Named Inventor **Eckhard Alt**  
 Art Unit **3734**  
 Examiner Name **VY Q. BUI**  
 Attorney Docket Number **DEA/050**

**U. S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US-4,994,071	02/19/1991	D.C. MacGregor	All
		US-5,749,825	05/12/1998	R.E. Fischell	"
		US-5,755,771	05/26/1998	I.M. Penn	"
		US-5,824,042	10/20/1998	S. Lombardi	"
		US-6,080,191	06/27/2000	D.P. Summers	"
		US-6,086,611	07/11/2000	N. Duffy	"
		US-6,099,497	08/08/2000	D.O. Adams	"
		US-6,099,560	08/08/2000	I.M. Penn	"
		US-6,117,156	09/12/2000	J. Richter	"
		US-6,129,738	10/10/2000	R.T. Lashinski	"
		US-6,315,794	11/13/2001	J. Richter	"
		US-6,361,557 B1	03/26/2002	D.C. Gittings	"
		US-6,398,807 B1	06/04/2002	P.F. Chouinard	"
		US-6,440,165 B1	08/27/2002	J. Richter	"
		US-6,514,281 B1	02/04/2003	D.J. Blaeser	"
		US-6,540,777 B2	04/01/2003	E.B. Stenzel	"
		US-6,540,779 B2	04/01/2003	J. Richter	"
		US-6,602,225 B2	08/05/2003	T. Eidenschink	"
		US-6,622,604 B1	09/23/2003	P.F. Chouinard	"

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				

Examiner  
SignatureDate  
Considered

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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 2 of 2**Complete if Known**

Application Number	10/738913
Filing Date	12/16/2003
First Named Inventor	Eckhard Alt
Art Unit	3734
Examiner Name	VYQ: Bui
Attorney Docket Number	DEA/056

U. S. PATENT DOCUMENTS					
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		Number-Kind Code <sup>2</sup> (if known)			
		US- 20010037137 A1	11/01/2001	G.M. Vardi	All
		US- 20010049552 A1	12/06/2001	J. Richter	"
		US- 20020095208 A1	07/18/2002	D. Gregorich	"
		US- 20023009209 A1	01/09/2003	H. Hojeibane	"
		US- 20030055483 A1	03/20/2003	D.C. Gumm	"
		US- 20030097169 A1	05/22/2003	G.G. Brucker	"
		US- 20030130719 A1	07/10/2003	E.C. Martin	"
		US- 20030181972 A1	09/25/2003	L.P. Jansen	"
		US- 20030187494 A1	10/02/2003	A. Loaldi	"
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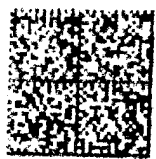
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